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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,814	12/05/2006	Donald John Newman	10399.17	6648
21999 7590 11/16/2010 KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111				
EXAMINER				
LUGO, CARLOS				
ART UNIT		PAPER NUMBER		
3673				
MAIL DATE		DELIVERY MODE		
11/16/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/597,814

Applicant(s)

NEWMAN ET AL.

Examiner

CARLOS LUGO

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2010.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 05 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on October 7, 2010.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1, 14 and 15 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 14 and 15 now require that the housing 12 is engaged at one end region to the handle spigot 11 and secured at an opposed end region to the mounting stock 15. At the instant, it is unclear what an end region is. The current specification does not give any basis or definition to that broad term.

As clearly shown in the drawings and explained in the specification, the housing 12 has a top end having a bore, an internal top end that is opposed to the top end and an opposed bottom end.

The spigot 11 is disposed over the top end and is introduced through the bore to the secured to the internal top end by a first locking means (clip 26).

The mounting stock is introduced and placed within the housing through the bottom end. A second locking means (screw 33) is used to secure the mounting stock to the side wall of the housing.

This is the way that the invention should be disclosed, according to the drawings and the specification. Until then, a broad interpretation will be given to the limitations. Correction is required.

As to claims 14 and 15, the claims still fail to disclose how the spigot and the stock are secured to the housing. The claim just mentions that the tail passes through the hole and that the stock is fitted to the housing, but fails to show how are secured there. Correction is required (also see above with respect to the "end region" limitation).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-8 and 10-14 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,386,602 to Lan.

Lan discloses a handle assembly comprising a handle (3), a handle spigot (2), biasing means (15) to bias the handle to a naturally closed position, an operating plate (4, 23) which is rotatable by the handle spigot, a mounting stock (1), and a housing (16).

The spigot, biasing means, operating plate and a majority of the mounting stock are positioned within the housing. The mounting stock is securable to one end of the housing (by the curved end where 16 is pointing in figure 3) by the housing being

fitted to the mounting stock so that at least a portion of the mounting stock extends into an end of the housing (at least could be just a portion or all).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 9 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,386,602 to Lan in view of US Pat No 5,617,749 to Park.

Lan fails to disclose the use of a mounting plate with the handle assembly.

Park teaches that it is well known in the art to provide a mounting plate (plate attached to the door, figure 1) that interacts with a handle assembly.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the handle assembly described by Lan with a mounting plate, as taught by Park, in order to make a separation between the handle assembly and the surface where is place it. The use of a plate will not change the mechanism of the handle assembly.

Response to Arguments

8. Applicant's arguments filed on October 7, 2010 have been fully considered but they are not persuasive.

First, the claims still present some 112 2nd paragraph issues that need correction. It is unclear what an "end region" is and the claims fail to disclose how they members

are secured.

As to the arguments with respect to the rejection in view of Lan, the arguments are not persuasive. The applicant argues that element 16 is not a housing as claimed. At the instant, element 16 houses or enclose the elements defined in the claim. Therefore, element 16 is a housing.

The housing 16 is engaged at one end region to the spigot 2 (engagement of 26 and 31) and at an opposed end region to the mounting stock 1 (by the inward lips of member 2 engaging member 1 in figure 3). Therefore, Lan discloses this limitation.

Further, the handle is secured to the mounting stock through the engagement of the housing to the mounting stock.

The handle 3 is secured to the stock 1 by element 21 and the stock is secured to the housing by the curved end. Therefore, the rejection is maintained.

At the instant, in order to speed the process, the examiner suggest that the applicant should define the housing as explained in the 112 2nd paragraph section above in order to overcome the current rejection and to put the application in allowance condition.

At the instant, the current prior art fails to disclose that defined structure. If the applicant wishes, he can contact the examiner and propose a non official amendment for consideration.

Allowable Subject Matter

9. **Claim 15 would be allowable** if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/
Primary Examiner
Art Unit 3673

November 12, 2010.